

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Robert Six, et al.,
Plaintiffs,
vs.
Robert Beegle, et al.,
Defendants.

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Case No.
2:11-cv-0698
Judge Graham

DEPOSITION OF **SCOTT FITCH**

Taken at Lavelle and Associates,
449 East State Street,
Athens, Ohio 45701

Tuesday, May 21, 2013
11:42 a.m.

Donna J. Karoscik, RMR, CRR, CCP, CLR
Realtime Advantage Court Reporting Services, Inc.
P.O. Box 279
Lancaster, Ohio 43130-0279
614-323-4455

APPEARANCES

On behalf of the Plaintiffs:

Sky Pettey, Esq.
Lavelle & Associates
449 East State Street
Athens, Ohio 45701

On behalf of the Defendants Jonathan Jenkins and
Scott Fitch:

Christopher P. Conomy, Esq.
Assistant Attorney General
150 East Gay Street, 18th Floor
Columbus, Ohio 43215

On behalf of the Defendants Jerry Peters, Joshua
Staats, Scott Parks, and Christine Roberts:

Alexis K. Chancellor, Esq.
Assistant Attorney General
P.O. Box 968
Grove City, Ohio 43123

On behalf of the Defendants William Gilkey, Adam
Smith, Rick Smith, Scott Trussell, Robert
Beegle, and Brian Rhodes:

Paul M. Bernhart, Esq.
Fishel, Hass, Kim, Albrecht, LLP
400 South Fifth Street, Suite 200
Columbus, Ohio 43215

Also Present:

Robert Six
Jonathan Jenkins

- - -

Tuesday Morning Session

May 21, 2013

11:42 a.m.

- - -

STIPULATIONS

- - -

It is stipulated by and between
counsel for the respective parties herein that
this deposition of SCOTT FITCH, a Defendant
herein, called by the Plaintiffs for examination
under the statute, may be taken at this time by
agreement of counsel and without other legal
formality; that said testimony may be reduced to
writing in stenotypy by the notary, whose notes
may thereafter be transcribed out of the
presence of the witness; and that proof of the
official character and qualifications of the
notary is waived.

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(Original exhibits were attached to the original deposition transcript.)

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1 - - -

2 P R O C E E D I N G S

3 - - -

4 SCOTT FITCH,

5 being by me first duly sworn, as hereinafter
6 certified, testifies and says as follows:

7 - - -

8 EXAMINATION

9 - - -

10 BY MR. PETTEY:

11 Q. Okay. Could you state your full name
12 for the record, please?

13 A. Donald Scott Fitch.

14 Q. And have you ever had your deposition
15 taken before?

16 A. Yes, sir.

17 Q. Okay. And in what type of case was it
18 that you had your deposition taken?

19 A. It was a civil -- oh, as a witness in
20 a civil suit when I was at Washington County
21 Sheriff's Office, maybe around 1997, give or
22 take. '96, '98, somewhere in that area.

23 Q. And you were not a defendant in the
24 case?

1 A. No, sir.

2 Q. I'll give you the kind of the same
3 ground rules that I talked about with
4 Mr. Jenkins. And let me ask you, you were
5 present for Mr. Jenkins' deposition; is that
6 correct?

7 A. Yes, sir.

8 Q. If you do want to take a break, please
9 feel free to ask, but I'll ask that you complete
10 the question that you're answering.

11 A. Okay.

12 Q. Please answer with yeses or nos if
13 it's a yes-or-no question, and please do give
14 verbal answers. Is that okay?

15 A. Yes, sir.

16 Q. And if you don't understand a
17 question, please feel free to ask me to rephrase
18 it or repeat it. But if you do answer, I'll
19 assume that you understood the question. Is
20 that fair?

21 A. Yes, sir.

22 Q. Are you currently under the influence
23 of any drugs, prescription or otherwise, or
24 alcohol that would affect your ability to

1 testify truthfully and accurately here today?

2 A. No.

3 Q. Okay. Let me ask you about your
4 educational background. Where did you attend
5 high school?

6 A. Eastern High School.

7 Q. And when did you graduate?

8 A. 1990.

9 Q. And, of course, that's in Meigs
10 County?

11 A. Yes, sir.

12 Q. Okay. And then have you had any
13 education after that?

14 A. Yes. Hocking College, an Associate's
15 degree, from '90 to '92 in police science. And
16 then from '93 to '94, I was at Ohio University,
17 criminal justice. And then University of Rio
18 Grande -- I'm not sure of the year -- a degree
19 in public administration.

20 Q. Okay.

21 A. Oh, I'm sorry. And Rockville
22 University after that with a Master's in
23 public -- or, I'm sorry -- criminal justice
24 administration. And I believe that was in 2009,

1 is when I completed.

2 Q. That's Rockville University?

3 A. Yes, sir.

4 Q. Okay. And where is that?

5 A. Virginia.

6 Q. Virginia.

7 A. It was an online course.

8 Q. Okay. And that resulted in a
9 Master's?

10 A. Yes, in criminal justice
11 administration.

12 Q. Did your time at O.U. result in any
13 degree?

14 A. No, no.

15 Q. Okay. And did your time at Rio Grande
16 result in a degree?

17 A. Yes. A Bachelor's in public
18 administration. Bachelor's of Science.

19 Q. Okay. About when did you graduate Rio
20 Grande?

21 A. Maybe 2004. I'm not -- give or take.

22 Q. 2004.

23 A. It was all during work. Yeah.

24 Q. Okay. All right. And did you attend

1 a police academy?

2 A. Yes, sir. Through Ohio Peace Officer
3 Training Academy through Hocking College in
4 19- -- the summer of 1992.

5 Q. Okay. And tell me your first law
6 enforcement job.

7 A. As a patrolman with the City of Belpre
8 Police from August of 1993 to August of 1995.
9 Do you want me to continue?

10 Q. Yeah, please.

11 A. I left there because I got employment
12 with the Washington County Sheriff's Office in
13 Marietta, Ohio, from August of 1995 until March
14 of 2001. While there, I was hired as a
15 uniformed road patrol officer until mid-1997,
16 and then I was promoted to detective and worked
17 in the detective bureau until March of 2001.

18 Q. Okay.

19 A. In March of 2001, I was hired at the
20 Ohio Bureau of Criminal Investigation, BCI, as a
21 special agent. I worked as a special agent
22 until December of 2011 when I was promoted to
23 special agent supervisor, and that's what my
24 current title is now.

1 Q. Okay. Okay. And as a special agent
2 supervisor, what do your duties include?

3 A. Supervising the -- what we call the
4 southeast and central Ohio -- and I believe
5 there's 23 counties, in the major crimes. That
6 involved crime scene agents and special
7 investigation units, SIU agents, and crime scene
8 agents.

9 Q. Okay. And have you ever had -- have
10 you ever been a defendant in a lawsuit?

11 A. No, sir.

12 Q. Have you ever had any citizen
13 complaints of any kind filed against you when
14 you were acting as a law enforcement officer?

15 A. No, sir.

16 Q. Have you ever been the subject of any
17 internal affairs investigations while a law
18 enforcement officer?

19 A. No, sir.

20 Q. Okay. Let's turn to the events that
21 are at issue in this lawsuit. How was it that
22 you first got involved in this case?

23 A. I received a call from Columbus Police
24 Department, also a member of the Ohio Task

1 Force, Jerry Peters. Jerry advised me, because
2 I was from this area and worked this area, that
3 they had done a package interdiction. And I
4 remember the number. Approximately 40 pounds of
5 marijuana was located, and he wanted to know --
6 he gave me an address on Rutherford Road in
7 Meigs County, if I could -- myself could drive
8 by and obtain a description for a possible
9 search warrant, and asked me if -- the following
10 day -- I don't know if he asked me initially. I
11 think he just asked me that initially. And I
12 told him, yeah, that's not a problem.

13 Agent Jon Jenkins and myself -- I
14 think that was on August 3rd, 2009. We were
15 traveling to Gallia County from Marietta to do a
16 narcotics operation. En route to there, we
17 drove by Mr. -- what we later found out to be
18 Mr. Six's residence on Rutherford Road and
19 obtained a description. I believe Agent Jenkins
20 took several photographs of the residence as we
21 drove by.

22 Q. Okay. Do you know what has happened
23 with those photos? Do you know whether those
24 photos have been produced in discovery in this

1 case?

2 A. I do not know.

3 MR. PETTEY: If they haven't been, we
4 would request that they be provided.

5 BY MR. PETTEY:

6 Q. Do you still maintain copies of those
7 photos in your file in this case?

8 A. I personally am not a case agent or
9 have any of the files, but not to my knowledge.
10 I mean, I don't know.

11 Q. Okay. That would be -- Mr. Jenkins on
12 this case would be your file agent?

13 A. For BCI. But, again, it was an
14 assisting role. He would have -- I assume he
15 would have forwarded those, if they do -- if he
16 did retain them, to either Meigs County
17 Sheriff's Office or the HIDTA Task Force in
18 Columbus.

19 MR. CONOMY: Just to let you know, as
20 far as we know, you've got everything we've got.
21 We can go back and check to see if there are
22 pictures or anything else, but to the best of my
23 knowledge you've got everything that's still in
24 existence on that matter.

1 THE WITNESS: And I believe that they
2 weren't really necessarily for any significance
3 other than to recall a description from the
4 photograph. Because, again, we was driving by
5 and it was in a rural area.

6 BY MR. PETTEY:

7 Q. Okay. After you did that drive-by,
8 what was the next involvement you had with this
9 case?

10 A. I think the following day I contacted
11 Jerry Peters, gave him the physical description
12 that agent Jenkins and myself obtained from
13 Mr. Six's residence as far as a description. He
14 asked me -- he said that they had had, you know,
15 the 40 pounds of suspected marijuana, asked me
16 if I could contact Sheriff Robert Beegle, at the
17 time the sheriff of Meigs County, to see if they
18 would be interested in doing a controlled
19 delivery of the package to Mr. Six's residence.

20 I told him I would. I contacted
21 Sheriff Beegle. I told the sheriff what
22 Mr. Peters had told me. He called me back
23 within an hour. He said he was going to talk to
24 one of the prosecutors, and said that he wanted

1 to make the controlled delivery.

2 Q. Okay.

3 A. I remember supplying him with
4 Mr. Peters' number.

5 Q. And why was it that you were giving
6 him Mr. Peters' number?

7 A. Well, because presumably they was
8 going to obtain a search warrant, and I really
9 didn't have any initial involvement other than
10 doing a drive-by of the residence to obtain a
11 description.

12 So once we had passed that along, I
13 was going to let basically the HIDTA Task Force
14 and the Sheriff's Office, whomever, whichever
15 officer might be assigned to that, you know,
16 work out the detailed description, is what they
17 was going to do, of the operational plan.

18 Q. Okay. After that communication with
19 then-Sheriff Beegle, what was your next
20 involvement with the case?

21 A. Jerry Peters called me. It was later
22 that -- late afternoon or that evening, I
23 believe, and asked me if we -- if the task force
24 that I was assigned to, the Major Crimes Task

1 Force out of Washington and Marietta -- or, I'm
2 sorry -- Washington County and Morgan County,
3 could provide an entry team; that they was going
4 to obtain a search warrant and needed some
5 assistance because Meigs County Sheriff's Office
6 didn't have their own entry team and they knew
7 that we did a lot of entries, if we could put
8 together an entry team to assist the Sheriff's
9 Office.

10 And I told him we could. And I
11 believe it was at that time they set up a
12 meeting -- a pre-execution of the search warrant
13 meeting at the O.U. -- Ohio University airport.

14 Q. Okay. Anything else you remember
15 discussing with Jerry Peters at that time?

16 A. No, not at that time.

17 Q. Okay. And then what was your next
18 involvement with the case after that
19 conversation?

20 A. We met at the Ohio University airport.
21 We went over the search warrant. It was advised
22 that the search warrant had been signed. I
23 believe Meigs County Deputy Adam Smith was the
24 affiant on the case and the search warrant, and

1 they reviewed the search warrant and essentially
2 gave out, like -- I guess you would say basic
3 assignments.

4 Q. Okay. And what were some of those
5 basic assignments?

6 A. Basically, the guys that was doing
7 entry would have been myself and Jon Jenkins,
8 Josh Staats from Washington County, Greg Nohe,
9 Scott Parks, Brian Rhodes, and Meigs County
10 deputies Adam and Ricky Smith was going to be
11 doing the entry.

12 It was my understanding that they was
13 going to make the controlled delivery in a U.S.
14 Postal Service vehicle to Mr. Six's residence,
15 and it was alarmed with an electronic device.
16 And when the package was opened, it would be
17 triggered. At that time, they would contact me
18 via radio, and I would -- at that point we was
19 to make entry; that that was the trigger, if you
20 will, on the search warrant to be activated.

21 Q. Let's use that same Jenkins Exhibit 1
22 as Exhibit 1 in this deposition as well.
23 There's Exhibit 1. And I'll give you a minute
24 to review that.

1 MR. CONOMY: Go ahead and take your
2 time. Read the whole thing if you need to.

3 THE WITNESS: Okay. I'm good.

4 - - -

5 (Deposition Exhibit No. 1
6 was marked for purposes of identification.)

7 - - -

8 BY MR. PETTEY:

9 Q. Do you recognize that exhibit?

10 A. Yes.

11 Q. And what is that?

12 A. It's a -- on BCI letterhead, an
13 investigative report that is authored by Agent
14 Jon Jenkins.

15 Q. Okay. And this is -- it also says
16 toward the top, "August 4th, 2009, case
17 opening." Have you had a chance to read over
18 that document?

19 A. Yes, sir.

20 Q. And do you have any reason to believe
21 that anything in that document is not accurate?

22 A. No, sir.

23 Q. Now, is it your understanding that the
24 HIDTA -- was it your understanding that the

1 HIDTA officers there were Columbus P.D.
2 officers?

3 A. U.S. Postal Service inspectors,
4 Columbus Police Department officers, Franklin
5 County Sheriff's Office officers. Those three
6 agencies.

7 Q. Okay. Now, are you sure that Franklin
8 County Sheriff's Office employees were involved?

9 A. Yes.

10 Q. Okay. And do you recall who they
11 might have been?

12 A. Lisa Brown.

13 Q. Okay. Any others?

14 A. Last name's slipping me right now, but
15 Clyde. He's a sergeant with the Sheriff's
16 Office.

17 Q. Okay. Anyone else?

18 A. Not that I recall.

19 Q. Okay. And then do you recall at the
20 O.U. airport whether it was discussed what would
21 be seized from the house?

22 A. I know the search warrant was read to
23 the participating officers, and in that would
24 have been items to be searched for. I don't

1 recall specifics.

2 Q. Okay. And what was your assignment,
3 as you remember it, after the discussions that
4 occurred at the O.U. airport?

5 A. To be part of the entry team, which
6 consists of when and if we was given the
7 go-ahead, if you will, if the package was opened
8 and the surveillance -- or the monitoring device
9 was activated, to make entry into the residence,
10 secure the residence and any people inside
11 the -- inside or on the residence.

12 Q. Okay. And we'll use Jenkins Exhibit 2
13 as Exhibit 2 in this deposition as well.

14 A. Okay.

15 - - -

16 (Deposition Exhibit No. 2
17 was marked for purposes of identification.)

18 - - -

19 MR. CONOMY: Once again, take your
20 time to read the whole thing if you need to.

21 THE WITNESS: Okay. Okay.

22 BY MR. PETTEY:

23 Q. All right. The very last word of the
24 report on the first page and then going on to

1 page 2, it says there, "Upon completing the
2 delivery, Major Crimes Task Force agents Josh
3 Staats, Brian Rhodes, Greg Nohe, Scott Parks,
4 Scott Fitch, and Jon Jenkins were responsible
5 for entering and securing the residence.
6 Deputies Adam Smith and Ricky Smith were also
7 assigned to entering and securing the
8 residence."

9 To your recollection, is that the
10 group that actually did enter and secure the
11 residence?

12 A. Yes.

13 Q. And it would have been one or more of
14 those officers who secured Mr. Six?

15 A. Correct.

16 Q. Let's go back to the O.U. airport.
17 Once you're done there, what did you do next?

18 A. Got into a vehicle, I believe driven
19 by Josh Staats, and drove to an area just below
20 Mr. Six's residence along the roadway, within
21 probably 100 feet.

22 Q. Okay. And do you recall any
23 conversations that occurred in the vehicle on
24 the way there or once you're there waiting near

1 the Sixes' residence?

2 A. No, sir. Once we would have been
3 there, we would have been just waiting on the
4 radio. We remember getting radio updates where
5 the officer driving the U.S. Postal Service
6 truck or vehicle -- I don't recall what type --
7 was in the driveway, leaving the driveway. We
8 could see that from our vantage point as well.
9 And then after that point we exited the vehicle
10 and waited for the go-ahead, if you will.

11 Q. Okay. And once you did receive the
12 go-ahead, what happened then?

13 A. The door -- the officers on the -- we
14 was kind of -- some of us was on the porch.
15 Some of us was standing down the steps.
16 Mr. Six's -- the door he knocked on to the
17 residence, nobody answered. I remember the door
18 being breached. And the officers we just
19 discussed, including myself, entered the
20 residence, secured Mr. Six, and searched the
21 residence for any additional occupants, which
22 there was none located.

23 Q. And that was breached with a ram?

24 A. Yes.

1 Q. Can you describe the ram and how it's
2 used?

3 A. Yeah. It's very heavy, metal.
4 It's -- I don't know -- probably maybe five
5 inches in diameter, maybe three and a half feet
6 long, and it has handles on it. And essentially
7 it is, with force, used to hit right around the
8 doorknob because it's the weakest part of the
9 door, and break the locking mechanism, if
10 necessary, to gain entry.

11 Q. All right. And is it your
12 recollection it was Jon Jenkins who used the
13 ram?

14 A. That is correct.

15 Q. Once the door was opened, what did you
16 do?

17 A. Once the door was opened, I entered
18 the residence, which you kind of entered into
19 the -- I guess the dining room area slash living
20 room. It's kind of an open area. As I was
21 coming in, I heard somebody say something to the
22 effect of a gun, which is obviously a very big
23 concern.

24 At that time, I'd seen Mr. Six

1 face-down on the living room floor. I seen a
2 gun on the coffee table, a handgun. I then went
3 and knelt down beside -- in between him and the
4 gun, and he was handcuffed at that time, while
5 other officers was searching, clearing the
6 residence for any additional occupants.

7 Q. All right. And did you do the
8 handcuffing?

9 A. No, sir.

10 Q. Who did that?

11 A. I do not who the officers was.

12 Q. It would have been one of those
13 officers that we had looked at on Exhibit 2 who
14 were part of the entry team?

15 A. Correct, correct.

16 Q. Okay. And did Mr. Six resist officers
17 when they were taking him into custody?

18 A. I don't -- no. He did not have an
19 opportunity to.

20 Q. Okay. So you were between the table
21 and Mr. Six. He's on the floor. Tell me how he
22 was handcuffed and what happened with him after
23 that.

24 A. He was handcuffed -- he was basically

1 laid out on the floor, face-down, on his
2 stomach. When I was there, I was -- I would
3 have been on his left side. His hands were
4 placed behind him and handcuffed with standard
5 handcuffs.

6 At that time he was assisted to stand
7 up. And then I personally walked him out on the
8 front porch. And I don't know if there was
9 another officer on the other side of him or not,
10 and there was Sheriff Robert Beegle. And
11 Mr. Beegle took control of Mr. Six.

12 Q. And that was just on the porch?

13 A. Yes, sir.

14 Q. Okay.

15 A. Yeah. Just two feet outside the
16 doorway.

17 Q. Okay. And so once you handed Mr. Six
18 off to Mr. Beegle, what did you do then?

19 A. Took him -- basically, walked out to
20 the vehicle, took my ballistic and entry
21 equipment off, and then -- because it's -- we
22 knew we was going to be searching -- you know,
23 assisting with the search of the residence, and
24 it's very cumbersome, the equipment is, and

1 heavy. So we would have -- or I took it off at
2 that time and left it in the vehicle and then
3 returned to the residence.

4 Q. Did you see what happened with Mr. Six
5 after you handed him off to Mr. Beegle?

6 A. No, sir.

7 Q. Did you see him in a patrol car at any
8 time?

9 A. No, sir.

10 Q. And you're not saying that he wasn't
11 in a patrol car? It's just that you didn't see
12 that?

13 A. Correct. I did not physically. No, I
14 did not.

15 Q. Okay. Okay. And so after you had
16 your entry gear off and so forth, what did you
17 do then?

18 A. Returned to the residence, and that's
19 when myself and everybody started searching
20 Mr. Six's residence.

21 Q. Okay. All right. And what parts of
22 Mr. Six's residence did you search?

23 A. When I got back in there, it's kind
24 of -- it's a small residence, and there was a

1 number of officers there. So it was kind of
2 just a little bit of everywhere. Typically
3 officers kind of just go to an area, and then
4 they search that area particularly. So I was
5 assisting wherever there wasn't an officer.

6 Ultimately, I think myself and most of
7 us was at one time or another in the back
8 bedroom where a lot of the weapons were found.
9 I think I had looked throughout the living room
10 as well. I know at one point I walked
11 downstairs. I don't know if I really actually
12 searched, but I walked downstairs into what I
13 guess what would be the basement area.

14 Q. What do you recall seeing in the
15 basement area?

16 A. I just remember it being very
17 cluttered and dusty and dark.

18 Q. Do you remember there being any animal
19 parts down there in the basement? Like turkey
20 or deer parts?

21 A. I remember later on in the search
22 warrant there was wildlife officers there, and I
23 asked what in the world they were doing there.
24 Because it's not typical that wildlife officers

1 will just show up to a narcotic search warrant.

2 And I don't remember who, but somebody
3 had told me that there was a bunch of deer
4 antlers located in the basement, and there was
5 something located in the freezer. I don't
6 remember what it was. I want to say some kind
7 of snake. But I don't know if my memory's
8 correct on that or not.

9 Q. But you didn't actually see any of
10 these animal parts in the basement when you were
11 there?

12 A. I remember seeing the wildlife -- I
13 think when, like, they seized them, if I
14 remember, because -- quite honestly, I thought
15 it was comical that they were concerned with
16 deer antlers when we were worried about 40
17 pounds of marijuana. That's what I remember.

18 Q. Okay. And then so when you
19 initially -- well, strike that.

20 Let's look at what was marked as
21 Exhibit 3 in Mr. Jenkins' deposition, and we'll
22 make that Exhibit 3 in this deposition as well.

23 A. Okay.

24 - - -

1 (Deposition Exhibit No. 3
2 was marked for purposes of identification.)

3 - - -

4 BY MR. PETTEY:

5 Q. Now, looking at this -- I'll give you
6 a chance to look at this list first.

7 A. Okay.

8 Q. Does looking at that list refresh your
9 memory about where you might have been in the
10 house? You have already indicated you were
11 perhaps in one of the bedrooms, the living room,
12 and at one point in the basement area but didn't
13 really search down there.

14 A. Not particularly, to be honest.

15 Q. Okay. What items do you remember
16 seizing yourself?

17 A. I don't know if I actually seized any
18 particular item. I remember that a lot of times
19 since I didn't really have a specific area that
20 I kind of gravitated towards, I would -- you
21 know, like, somebody would bring -- like, say --
22 just an example, I don't recall this. An
23 officer would hand me a gun and say, hey, I
24 found this in the master bedroom. And I might

1 walk it out to the inventory officer and hand it
2 to them and maybe assist by reading a serial
3 number off of it or a gun description, a firearm
4 description, something to that effect.

5 I also recall -- I see this is labeled
6 a red chest. I don't remember if it was a red
7 chest or some type of box with numerous handguns
8 inside of it. I kind of just in the doorway,
9 kind of half in the residence, half out of the
10 residence, sat there along with another officer,
11 and we was going through -- I believe Officer
12 Nohe had found the box and I had -- was going
13 through those looking at those, inventorying
14 those particular guns individually as opposed to
15 just saying, you know, here's a box with a bunch
16 of guns.

17 Q. And so as you inventoried those ones
18 that were in the box, what was done with the
19 firearm after you had, you know, gotten the
20 information from it, inventoried it?

21 A. Like all the items, taken to the
22 inventory officer and left with them with a
23 description, including the serial number.

24 Q. Okay. Did you see what was being done

1 with firearms once the inventory officer had
2 logged it in?

3 A. Prior to being loaded for exiting the
4 residence?

5 Q. Yes.

6 A. I know that at least -- I don't know
7 if all, but a majority of them was kept right
8 there at the -- I guess it would be the kitchen
9 table where the inventory officer was sitting,
10 completing this inventory report. Was being
11 kept there, kind of like stacked up, laid on --
12 I don't know exactly their method, but right
13 there with them.

14 Q. Now, do you know whether weapons were
15 stacked up there at the kitchen table area and
16 just -- where all they all stacked before they
17 were taken out, or were some being taken out and
18 some being left there on the table?

19 A. I don't recall any of them being
20 removed prior to the end of the search warrant.

21 Q. Okay. So you think --

22 A. They would have been, but not to my
23 knowledge. I didn't transport any weapons out
24 of there prior to the search warrant being -- or

1 the search being concluded.

2 Q. Okay. And so you're thinking -- your
3 recollection is that they are taken out to the
4 vehicles only once the entire search of the
5 inside of the house is done?

6 A. Correct.

7 Q. And so we're talking about
8 somewhere -- well, how many weapons would you
9 estimate were seized?

10 A. I mean, I don't know a particular --
11 to put a numerical figure to it. A lot. A lot
12 of weapons.

13 Q. And so if they're all being maintained
14 in that kitchen table area, there would be a
15 sizable stack or conglomeration of firearms
16 there; would that be fair to say?

17 A. Correct. And, again, a lot of them
18 might -- was put back into, I think, like a
19 chest or a box as I referred to it. I don't
20 remember what it was, but, you know, there was a
21 lot of weapons around there. Yes, sir.

22 Q. Now, do you remember items other than
23 firearms that were seized that day?

24 A. I remember drug paraphernalia, what I

1 define as Neo-Nazi or White Supremacist
2 paraphernalia, and then potentially -- in just
3 reading over this lawsuit apparently there was
4 some antlers and some things that apparently was
5 seized that I wasn't familiar with necessarily.

6 Q. Okay. Now, in terms of what you're
7 phrasing Neo-Nazi or White Supremacist items, do
8 you have any knowledge of whether the items were
9 actually World War II historical items or not?

10 A. I don't think the Confederate flag
11 necessarily has any World War II historical
12 significance. And the derogatory bobblehead of
13 the black male probably, in my opinion, doesn't
14 have a lot of World War II significance. And
15 there was some other paraphernalia similar to
16 that that I think it would be quite a stretch to
17 associate it with World War II historical
18 significance.

19 Q. It would also be a stretch to
20 associate it with Nazis; wouldn't that be fair
21 to say? A Confederate flag and a bobblehead?

22 A. Not in my experience in dealing with
23 them.

24 Q. Okay. So apart from the bobblehead

1 and the Confederate flag, are there any other
2 items that you associate as White Supremacist
3 items?

4 A. Yeah. There was some paperwork and
5 some other little figurines and stuff that he
6 had that held no evidentiary value, but
7 certainly at the very least indicated that
8 somebody had some very serious racial views, in
9 my opinion.

10 Q. Okay. What kind of paperwork are you
11 talking about?

12 A. Oh, he had -- I don't remember exactly
13 what it was necessarily, but it was things
14 associated with, you know, the Confederacy not
15 on a historical level, but it was more of just
16 the Confederate flags, things of that nature.
17 There was also some Adolf Hitler things that was
18 there. I don't remember specifics.

19 Q. Okay. What are the Adolf Hitler
20 things that you're --

21 A. Again, there was like some
22 documentation, some, you know, like, little
23 medals, if you will, things of that nature.

24 Q. And do you know whether those items

1 were historical World War II items or not?

2 A. I have no idea.

3 Q. And with the other Nazi items, you're
4 not aware with those either, whether they're
5 historical World War II items or not; is that
6 fair to say?

7 A. No, that would -- didn't hold a lot of
8 relevance to me in my being there.

9 Q. Okay. Do you recall any knives being
10 seized?

11 A. I do not. I do remember an additional
12 item that you -- now that I'm thinking, there
13 was some documentation or possibly even a badge
14 where Mr. Six had been a police officer, and
15 then they found some accompanying documentation
16 to where he had been fired due to some kind of
17 drug offense. I do remember that.

18 But, again, I don't -- to my
19 knowledge, I don't think that was seized. I
20 don't remember. I just remember somebody saying
21 that. I want to say it was like in Ohio, but
22 like Oakland P.D. or Oakland Township P.D.
23 Something along those lines.

24 Q. And that's something you're saying you

1 became aware of that day?

2 A. Correct.

3 Q. Okay.

4 A. Yeah. I think somebody had located a
5 badge or something like that, or an I.D.

6 Q. Okay. And the bobblehead you're
7 referring to --

8 A. Uh-huh.

9 Q. -- can you describe that?

10 A. I don't know. Four or five inches
11 tall.

12 Q. Okay. And why was it that you felt it
13 was somehow derogatory?

14 A. Well, Clyde was with me, and Clyde's a
15 black male. And he found it highly offensive.
16 It had some little slogan on it that was
17 disparaging to African Americans. I don't
18 recall it to quote it. It depicted African
19 Americans in a negative light. I do remember
20 that. Again, I didn't focus on the bobblehead.
21 I just recall it. Because I wasn't there to
22 seize bobbleheads.

23 Q. Okay. When you -- once the
24 inventorying of the firearms was done, what did

1 you do from there?

2 A. Jerry Peters had a truck with a topper
3 on the back. I remember him backing it up
4 closer to the porch, and the majority if not all
5 the officers involved, including myself, carried
6 the firearms out in the back of his truck. And
7 they was placed inside, in the back.

8 Q. Okay. And your recollection is that's
9 done all at once at the end after the search in
10 the house is done?

11 A. Yeah. Again, if there was any
12 before -- I know we took a lot of weapons, guns,
13 firearms outside of the residence at that time.
14 If there was any prior to that, I was not aware
15 of it. You see, my understanding, it was all
16 done at once.

17 Q. Okay. Now, would it be fair to say
18 that the only people who had an opportunity to
19 make away with any of these firearms or other
20 items of personal property were the officers who
21 were there executing the search warrant?

22 MR. CONOMY: Objection.

23 Go ahead.

24 THE WITNESS: I'm not sure how

1 somebody that wasn't there could have made away
2 with a firearm from the residence, so I guess
3 common sense would say, yes, you had to have
4 been there to theoretically take a weapon. Does
5 that answer your question?

6 BY MR. PETTEY:

7 Q. Yes, sir.

8 A. Okay.

9 Q. Now, you were not involved in the
10 transportation of the weapons from the Sixes'
11 residence to the Meigs County Sheriff's Office?

12 A. No, sir.

13 Q. And is that your understanding of
14 where the weapons were going to be taken?

15 A. Yes. Because I remember there was
16 discussion that Jerry was going to follow the
17 sheriff and Meigs County officers to the
18 Sheriff's Office, and they was going to be
19 unloaded there and held at the Meigs County
20 Sheriff's Office, was my understanding. I got
21 back into the vehicle that was there and was
22 driven, I believe, again, by Josh Staats, back
23 to the O.U. airport where several of us had
24 parked our vehicles, and then from there headed

1 home.

2 Q. Now, at the time that the firearms are
3 being taken away and you're leaving, did you see
4 whether Mr. Six was still present?

5 A. No, I did not. After Mr. Beegle took
6 control of Mr. Six and was walking him off the
7 porch, I hadn't seen Mr. Six until this morning
8 at the deposition.

9 Q. Did you testify in any of the criminal
10 proceedings against Mr. Six?

11 A. No, I did not. I think I was
12 subpoenaed to potentially a grand jury. Again,
13 due to the time, I'm not particularly sure. I
14 think I was subpoenaed to testify before a grand
15 jury. But either the grand jury didn't go that
16 day or else my testimony was not needed. But I
17 do not recall actually testifying.

18 Q. And you did not participate when the
19 firearms were returned to Mr. Six?

20 A. No, sir.

21 Q. Have you heard anything about any
22 firearms or other items of personal property
23 that were seized from the Sixes' residence not
24 being returned?

1 A. The paperwork once the lawsuit was
2 filed was the first that I was made aware of it.

3 Q. Okay. And you haven't seen any of
4 these items since they were seized that day?

5 A. No, sir.

6 Q. You never had any call to check any of
7 these items out of the evidence room for any
8 reason at the Meigs County Sheriff's Office?

9 A. No, sir.

10 Q. You've heard Mr. Jenkins testify he
11 thought it was cool that day. We've had other
12 officers testify they thought it was hot that
13 day. What's your recollection about what the
14 weather was that day?

15 A. Me, along with some other officers --
16 the way I remember it, it was unseasonably cool.
17 It was a perfect day, beautiful day, is the way
18 I remember the weather. Because I remember it
19 was -- you know, we do a lot of search warrants
20 and August typically is hot, and this was
21 actually a very comfortable day. It was
22 daylight, no rain, cloudy.

23 Q. You had no -- you don't know the
24 conditions under which Mr. Six was detained

1 during the search; is that fair to say?

2 A. Correct.

3 Q. Were you aware that he was in the back
4 of a Meigs County Sheriff's Office cruiser.

5 A. I assumed that he was going to be
6 transported to the Meigs County Jail or to
7 wherever they might hold Mr. Six, because
8 sometimes their prisoners -- I don't know about
9 their jail, housing prisoners not always at
10 Meigs County, but he was going to be transported
11 to a jail facility. So I knew that he would
12 have to be in the back of a cruiser to get there
13 that was equipped to transport a prisoner. I
14 mean, he wasn't -- does that answer your
15 question?

16 Q. Well, I guess what I'm asking is
17 whether you had personal knowledge that he was
18 in the back of the Meigs County --

19 A. No.

20 Q. -- Sheriff's Office cruiser?

21 A. No.

22 Q. Okay.

23 MR. PETTEY: Let's take a quick break.
24 I think we're pretty close to the end here.

1 MR. CONOMY: All right.

2 - - -

3 (Recess taken.)

4 - - -

5 BY MR. PETTEY:

6 Q. Okay. We're ready to go back on the
7 record.

8 All right. This Confederate flag,
9 where do you recall that being?

10 A. The flag itself, in the back bedroom.

11 Q. Okay. And where in the back bedroom?

12 A. I don't remember specifically.

13 Q. Was it displayed on a wall or stored
14 in a box or --

15 A. No. Really, I don't recall anything
16 really being that organized.

17 Q. And was it just the one, or were there
18 multiple?

19 A. There was smaller not actual flags but
20 things that happened with the Confederacy. And
21 then, like I said, there was several other bits
22 of paperwork and figurines that was not really
23 associated with the Confederacy but it was
24 disparaging to blacks.

1 Q. Okay. And smaller things representing
2 the Confederacy, what do you mean by that?

3 A. There was, I mean, several things with
4 the confederate things on them symbolized, just
5 not a flag itself. Not the material of a flag.
6 I don't remember -- again, we wasn't there to
7 document Confederacy memorabilia, Neo-Nazi,
8 White Supremacist, historical stuff. We were
9 there for drugs and guns, not bobbleheads or
10 flags or things of that nature.

11 Q. Right, right.

12 You didn't feel you had probable cause
13 to seize those other kind of items; would that
14 be fair to say?

15 A. The items we're referring to?

16 Q. Yeah. The Nazi memorabilia, the
17 Confederate flag, the bobblehead?

18 A. Yeah. Well, to my knowledge, they
19 weren't listed on the search warrant and I don't
20 know what crime there is to possess a -- I don't
21 know -- racist bobblehead.

22 Q. So you would agree there wasn't
23 probable cause to seize those items?

24 A. Well, no. To my knowledge, it's not a

1 crime.

2 MR. CONOMY: Can you be particular as
3 to which items that are on this list?

4 MR. PETTEY: Well, we were discussing
5 the Nazi items, the Confederate flag and
6 Confederate items, and the bobblehead.

7 MR. BERNHART: I'm going to place an
8 objection on the record.

9 MR. CONOMY: Yeah. Unless we're going
10 to go one by one through each item, I think
11 we're not going to be able to -- I don't think
12 that question's going to be able to stand.

13 MR. PETTEY: Okay. Are you
14 instructing your client not to answer that
15 question?

16 MR. CONOMY: I'm asking that you
17 clarify. I mean, items is a -- there's weaponry
18 and there's non-weapon items, some of which may
19 have fallen within your question, some of which
20 would not. So I'm just asking that you clarify
21 it.

22 MR. PETTEY: Okay.

23 MR. BERNHART: And I'm going to place
24 an objection on the record that the entire line

1 of questioning regarding probable cause and the
2 seizure of items calls for a legal conclusion.

3 BY MR. PETTEY:

4 Q. All right. In terms of the
5 bobblehead, you didn't feel like you had
6 probable cause to seize that; would that be fair
7 to say?

8 A. Correct.

9 Q. And in terms of the items with
10 Confederate flag symbols on them or the
11 Confederate flag itself, you didn't feel like
12 you had probable cause to see that; would that
13 be fair to say?

14 A. Yeah. It was -- that was not what we
15 was looking for.

16 Q. And in terms of items that were
17 non-weapons but had Nazi symbols on them, you
18 didn't feel like you had probable cause to seize
19 those; would that be fair to say?

20 MR. BERNHART: I'm going to, again,
21 object to the entire line of questioning. That
22 will be a continuing objection.

23 MR. PETTEY: Okay. And I'll note for
24 the record I'm asking him his opinion about

1 that, whether he felt he had probable cause.
2 But your objection is noted.

3 THE WITNESS: I don't know if it
4 was -- if any of these items were seized or not.
5 I know I didn't seize any of them. To my
6 knowledge, that wasn't what I was focused on.
7 There was so many weapons, firearms that we were
8 seizing. I wasn't concerned with and I don't
9 believe many people was too concerned, but --
10 BY MR. PETTEY:

11 Q. The question was whether the
12 non-weapon Nazi paraphernalia was something you
13 felt like you had probable cause to seize.

14 A. I never made a determination one way
15 or another. It didn't have any evidentiary
16 value, to my understanding, to what we was doing
17 there. I was never -- I never posed the
18 question if we had probable cause to take it or
19 not.

20 Q. I understand you didn't ask anybody
21 that. I'm asking whether you felt you had
22 probable cause to seize that kind of thing based
23 on the warrant you had.

24 A. I never thought about it. There was

1 probably ketchup in the refrigerator I didn't
2 seize either, but I didn't give that that much
3 thought either. Does that make sense?

4 Q. Yeah. And if I asked you did you have
5 probable cause to seize the ketchup, would your
6 answer be yes or no?

7 A. I never gave it any consideration that
8 day because ketchup was about as relevant to me
9 as bobbleheads.

10 Q. And so you're saying that you can't
11 answer that you did not have probable cause to
12 seize ketchup?

13 MR. CONOMY: I'll object to the form.

14 THE WITNESS: I was there seizing guns
15 and drugs. Okay? I never thought about at the
16 time during that day if I had probable cause to
17 seize bobbleheads or a bottle of ketchup. They
18 both were irrelevant to me.

19 BY MR. PETTEY:

20 Q. And you're saying the same is true of
21 Nazi paraphernalia that were non-weapons?

22 A. That wasn't my decision, to seize it
23 or not. I was asked to seize -- help assist
24 with seizing the weapons. Okay? This was not

1 my case. I was not making those legal
2 decisions.

3 Q. Okay. And who asked you to assist
4 with seizing the weapons?

5 A. Sheriff Robert Beegle.

6 Q. And when did he ask you that?

7 A. Prior to the airport, at the airport,
8 during the briefing.

9 Q. Okay. So during the briefing, it was
10 discussed that weapons would be seized?

11 A. I believe that's when it was. Again,
12 what I testified earlier, that we read over the
13 search warrant. I don't recall what firearms
14 was listed on the search warrant or not. But at
15 some point they said it was just -- that's
16 pretty standard procedure. Where there's drugs
17 and guns, they all get collected. Whether or
18 not it was listed on the search warrant or not,
19 I'm not sure. I don't recall. It was nearly
20 four years ago. I do remember seizing firearms
21 and I do remember seizing drugs.

22 Q. You did not seize any Nazi items,
23 though?

24 A. I personally did not, no.

1 Q. Okay. You saw Nazi items there --

2 A. Correct.

3 Q. -- fair to say?

4 And why was it that you did not seize
5 those items?

6 A. Because I was seizing guns.

7 Q. Okay. There was certainly the
8 opportunity for you to seize those. Why didn't
9 you take the opportunity and seize the Nazi
10 items that were non-weapons?

11 A. Because the case officers and case
12 agents did not instruct me to do so.

13 Q. And you obviously did not feel as if
14 you were independently authorized to do that
15 either; would that be fair to say?

16 MR. CONOMY: Objection.

17 Go ahead and answer.

18 THE WITNESS: I wasn't going to
19 independently collect anything because it wasn't
20 my case.

21 BY MR. PETTEY:

22 Q. And so you're saying you were going to
23 seize only those items that you had been told to
24 seize? Is that what you're saying?

1 A. That's what we do when we assist other
2 officers. We do what they ask us to do.

3 Q. And so you were exercising no -- none
4 of your own thought about what would be seized,
5 apart from following the instructions you were
6 given?

7 A. Other than firearms and drugs,
8 correct.

9 Q. And you believe that those were the
10 instructions that were given to all of the
11 officers at the same time at that O.U. airport
12 meeting; would that be fair to say?

13 A. Correct.

14 Q. And so an officer who was seizing Nazi
15 paraphernalia that was not a weapon would be
16 acting outside the instructions he was given;
17 would that be fair to say?

18 A. I can't say what other instructions
19 that officer may or may not have had. I'm just
20 saying I personally was not instructed to seize
21 Nazi paraphernalia or whatever -- however else
22 you define it. I don't know what the other
23 officers was -- if they was instructed anything
24 beyond that or not.

1 Q. But you didn't ever hear any
2 instructions that were given to the whole group,
3 for instance, saying we're going to take Nazi
4 paraphernalia that are non-weapons?

5 A. I did not. No, sir.

6 Q. And your understanding of what you
7 were going to seize was arrived at at the O.U.
8 airport; is that fair to say?

9 A. I believe so, yes.

10 Q. And so it was not something that was
11 done after you were back at the Sixes' -- I said
12 back at the Sixes' residence -- after you were
13 at the Sixes' residence?

14 A. I don't -- like I said earlier, the
15 search warrant was gone over. It lists on there
16 items to be seized and searched for. Where
17 there's guns or -- or drugs and guns, you seize
18 all that. That was my focus. I don't recall
19 any -- there was no discussion that I ever
20 recall of any Nazi paraphernalia at the airport,
21 because obviously no one at the airport would
22 have known that that would have been inside the
23 residence until we was at the Six residence.

24 Q. And what you were seizing was not

1 based on your understanding of the search
2 warrant; it was based on the instructions that
3 were given to you?

4 A. The instructions was given to me based
5 off the search warrant. Again, on the search
6 warrant, it says items to be seized and searched
7 for. There's a whole list of items. Part of
8 that is drugs and firearms, to my knowledge.
9 That was my instructions. Part of the
10 instructions was read directly from the search
11 warrant.

12 MR. PETTEY: All right. Let's take a
13 quick break here. I'm going to go ahead and get
14 a copy of that search warrant since we're having
15 a discussion about it.

16 MR. CONOMY: Okay.

17 - - -

18 (Recess taken.)

19 - - -

20 MR. PETTEY: Okay. Let's mark this as
21 Exhibit 4.

22 (Fitch Deposition Exhibit No. 4
23 was marked for purposes of identification.)

24 - - -

1 MR. CONOMY: As usual, please take
2 your time and read the whole thing if you need
3 to.

4 MR. PETTEY: Excuse me. I'll be right
5 back.

6 - - -

7 (Pause in proceedings.)

8 - - -

9 BY MR. PETTEY:

10 Q. Okay. Have you had an opportunity to
11 review that?

12 A. Yes, sir.

13 Q. And what is that?

14 A. It's a search warrant signed by Meigs
15 County Juvenile Probate Judge, Judge Powell, for
16 Meigs County, on Mr. Six. The search warrant
17 we've been referring to in this deposition.

18 Q. Nowhere in that search warrant does it
19 specifically mention firearms; would that be
20 fair to say?

21 A. Correct.

22 MR. BERNHART: Objection.

23 MR. CONOMY: I'll object as well.

24 THE WITNESS: No, it doesn't

1 specifically say firearms, no.

2 BY MR. PETTEY:

3 Q. Okay. But it was discussed at the
4 O.U. airport that firearms would be seized, as
5 we've just already -- as you already testified,
6 correct?

7 A. Well, I believe that it was discussed.
8 I mean, obviously this was read. This was what
9 I remember being read, which was basically
10 standard language with any narcotic search
11 warrant. And with any narcotic search warrants,
12 it's standard that if you have 40 pounds of
13 marijuana and weapons laying all around that
14 everything goes. I mean, that's just -- that is
15 as basic of narcotic search warrants as you can
16 get.

17 So, I mean, it would be my
18 understanding, if I just read this, that this --
19 you know, because it talks about -- and I think
20 the language they always talk about is the
21 proceeds. And, you know, oftentimes whenever
22 there's weaponry or drugs, a large amount of
23 drugs, any proceeds possibly from the benefit or
24 whatever, not necessarily -- it could mean cash.

1 It could mean firearms.

2 I mean, typically, just no different
3 than cash. If we had found a large sum of cash
4 beside the large amount of drugs, we would have
5 seized that. That's standard as well. But in
6 this scenario, we're referring to firearms.

7 Q. And you're referring to them as
8 proceeds?

9 A. No. I'm referring to them as part of
10 the crime with the drugs. I don't think I've
11 ever been on a narcotic search warrant where
12 they're right beside the drugs with firearms
13 that we've never seized it.

14 Q. Now, Nazi paraphernalia is not listed
15 in this search warrant either; is it?

16 MR. CONOMY: Objection.

17 THE WITNESS: Correct.

18 BY MR. PETTEY:

19 Q. Have you had a chance to review the
20 Meigs County Common Pleas Court's decision
21 ordering the return of the firearms to Mr. Six?

22 A. No, sir. I'm aware that there was
23 one, but I've not reviewed it, no.

24 Q. Do you recall whose instructions you

1 were acting on when you were seizing the
2 firearms? You said that you were acting on the
3 instructions of those who were organizing this.

4 A. I don't specifically know who led the
5 briefing, if you will, prior to the search
6 warrant.

7 Q. Who was the law enforcement agency
8 that was in charge of this operation?

9 A. Meigs County Sheriff's Office. They
10 were the investigating agency.

11 Q. Were you aware of any photos that were
12 taken of these Confederate flag -- of the
13 Confederate flag or any items bearing a
14 Confederate flag?

15 A. I did not take any photographs. I'm
16 not sure if anyone else did.

17 Q. Okay. Let's take a look at Exhibit 3
18 again. And I'll direct you to the page that at
19 the bottom right-hand corner is marked 572.

20 A. Okay. Just a moment.

21 Q. 572.

22 A. Okay.

23 Q. Items 100 and 100-A, the second and
24 third items listed there.

1 A. Okay.

2 Q. Item 100-A is listed as miscellaneous
3 documents found in the living room. Is that --

4 A. Correct, correct.

5 Q. What documents were those?

6 A. I have no idea. I was not -- I didn't
7 seize those.

8 Q. And this exhibit doesn't allow you to
9 determine what those documents were; does it?

10 A. That's correct.

11 Q. Exhibit 101-A, miscellaneous Nazi
12 paraphernalia found in the master bedroom. Is
13 that correct?

14 A. Correct.

15 Q. What Nazi paraphernalia is being
16 referred to there?

17 A. Again, I can't say. It wasn't I that
18 collected it.

19 Q. You were in the master bedroom for
20 some of the time?

21 A. At some point during the search
22 warrant, yes, but I'm not sure what they're
23 listing as item 101-A.

24 Q. And this property description in this

1 document does not allow you to determine what
2 items those were; does it?

3 A. Correct.

4 Q. Okay. Those are all the questions I
5 have. Thank you.

6 A. Thank you.

7 MR. CONOMY: Agent Fitch, as with
8 Agent Jenkins, you have the right to review a
9 transcript for errors if it is prepared, and I
10 recommend you reserve that right.

11 THE WITNESS: Okay.

12 - - -

13 (Signature not waived.)

14 - - -

15 (Thereupon, the deposition was
16 concluded at 1:04 p.m.)

17 - - -

18

19

20

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22

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24

AFFIDAVIT

State of Ohio :

SS:

County of _____:

I, SCOTT FITCH, do hereby certify that I have read the foregoing transcript of my deposition given on May 21, 2013; that together with the correction page attached hereto noting changes in form or substance, if any, it is true and correct.

SCOTT FITCH

I do hereby certify that the foregoing transcript of the deposition of SCOTT FITCH was submitted to the witness for reading and signing; that after SCOTT FITCH had stated to the undersigned Notary Public that the transcript had been read and examined, said transcript was signed in my presence on the _____ day of _____, 2013.

Notary Public

My commission expires:

ERRATA SHEET

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July 5, 2013

Christopher P. Conomy, Esq.
Senior Assistant Attorney General
150 East Gay Street, 18th Floor
Columbus, Ohio 43215

Re: Six, et al. vs. Beegle, et al.
Case No. 2:11-CV-0698

Dear Mr. Conomy:

Enclosed please find your original of the deposition transcript of SCOTT FITCH, taken on Tuesday, May 21, 2013, for examination pursuant to Rule 30(E) of the Ohio Rules of Civil Procedure.

As you will recall, signature was not waived. Please have the witness read and sign the deposition transcript in the twenty-eight days allotted by the Rules. After completing the above, please incorporate the original signed Affidavit and Errata sheet into your original transcript, and provide copies to me at the above address.

Thank you for your assistance in this matter.

Sincerely,

Donna J. Karoscik,
RPR-RMR-CRR-CCP-CLR

Enclosures

cc: Paul Bernhart, Esq.
Alexis Chancellor, Esq.
Sky Pettey, Esq.

CERTIFICATE

State of Ohio:

County of Fairfield: SS:

I, Donna J. Karoscik, Notary Public in and for the State of Ohio, duly commissioned and qualified, certify that the within named SCOTT FITCH was by me duly sworn to testify as to the truth in the cause aforesaid; that the testimony was taken down by me in stenotypy in the presence of said witness and transcribed upon a computer; that the foregoing is a true and correct transcript of the testimony given by said witness taken at the time and place in the foregoing caption specified.

I certify that I am not a relative, employee, or attorney of any of the parties hereto; that I am not a relative or employee of any attorney or counsel employed by the parties hereto; that I am not financially interested in the action; and further, that I am not, nor is the court reporting firm with which I am affiliated, under contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have set my hand and affixed my seal of office in Fairfield County, Ohio, on this 5th day of July, 2013.

DONNA J. KAROSCIK,
Notary Public in and for the
State of Ohio
Registered Professional Reporter
Registered Merit Reporter
Certified Realtime Reporter
Certified CART Provider
Certified LiveNote Reporter

My commission expires
January 30, 2017.